IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Dr. Sanjeev Saxena Vs. Smt. Tara Devi

S.B.CR.MISC. PETITION NO.1132/2005

DATE OF ORDER :: December 07, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Sunil Joshi, for the petitioner.

Mr.Umesh Shrimali, for non-petitioner.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt.27.9.2005 passed by the Additional Sessions Judge No.2, Chittorgarh (for short 'the revisional court' hereinafter), whereby the revision petition filed by the non-petitioner against the order dt. 19.4.2005 passed by the Judicial Magistrate, Rawatbhata (for short 'the trial court' hereinafter), was allowed and the order of the trial court dismissing the complaint was set aside and the matter was remanded to the trial court.

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It appears that non-petitioner filed a complaint against the present petitioner for the offences under sections 354 and 509 I.P.C. The statement of the complainant was recorded under section 200 Cr.P.C., however, on 19.4.2005, the complainant-non-petitioner suddenly fell ill and her counsel filed an application before the trial court seeking dispensing with her personal appearance and to produce the witnesses. The trial court accepted the application filed by the non-petitioner through her counsel to the extent of dispensing with the personal appearance but did not afford opportunity to her to produce the witness and dismissed the complaint for want of evidence. That order came to be challenged before the revisional court. The revisional court set aside the order and remanded the matter to the trial court to record the statements of the witnesses, if the complainant produces, and decide the matter on appreciation of the evidence.

The statement of complainant was very much on record. The trial court without appreciating the evidence, dismissed the complaint for want of evidence. There was absolutely good evidence. In my view the revisional court was justified in setting

aside the order of the trial court and remanding the matter. No case for interference in the inherent jurisdiction is made out.

The petition has no force and the same is, therefore, dismissed. Ad interim stay order dt. 17.10.2005 is vacated. The stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-